

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS A. CENSKE,

Plaintiff,

Case No. 5:03-cv-171

v

Hon. Wendell A. Miles

CALHOUN COUNTY JAIL,
DAVE TENZIEGOSKI - CLASSIFICATION OFFICER,
LT. ISSON - UNIT SUPERVISOR, and
MR. WILD - AD. SEG. DUTY STAFF,

Defendants.

/

ORDER ON PLAINTIFF CENSKE'S OBJECTIONS TO MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

This is a *pro se* civil rights action filed under 42 U.S.C. § 1983 by Michigan prisoner Thomas A. Censke.¹ On June 2, 2005, United States Magistrate Judge Ellen S. Carmody issued a Report and Recommendation ("R & R") recommending that a motion for judgment on the pleadings or for summary judgment filed by defendants be granted. Plaintiff Censke has filed objections to the R & R, some of which are timely (docket no. 65) and others which are not (docket no. 68).

The court, having reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action, having reviewed the file in this matter, and having reviewed the

¹Within the last two years, Censke has filed no less than 12 civil cases in this district.

plaintiff's timely objections to the R & R, agrees with the recommended disposition contained in the R & R. The court will therefore dismiss this case without prejudice.

Discussion

In his timely objections,² plaintiff characterizes the R & R's conclusions as a "surprise [sic] slap in thy [sic] foace [sic]" because he apparently believed that he would face no further obstacles after his complaint survived to an Order for Service, entered on December 4, 2003.

Plaintiff, by stipulation with the defendants, filed an amended complaint in December, 2004, approximately one year after the court issued its Order for Service. As the Magistrate Judge has correctly noted in her R & R, plaintiff's amended complaint makes no allegations of wrongdoing on the part of any individual or entity. Although the amended pleading indicates that plaintiff is complaining of conditions he experienced while he was detained at the Calhoun County Jail beginning in June, 2003, the pleading does not allege misconduct on the part of any particular person or entity subject to suit; indeed, it is not even clear from the amended pleading just who plaintiff intends to name as a defendant.³ Under the circumstances, the court concludes that the Magistrate Judge did not err in concluding that this action should be dismissed without prejudice.

²It is not known why plaintiff filed two separate sets of objections, one timely and one untimely. The court has not considered the later-filed untimely objections insofar as plaintiff has not offered any excuse why he did not include all of his objections in his initial timely filing.

³The caption on the face of this Order is derived from plaintiff's initial complaint; the amended complaint contains no caption. Although plaintiff has indicated that he was being held at the Calhoun County Jail while in the custody of United States Marshals, plaintiff has never identified any federal officer or agency as a defendant.

CONCLUSION

The court agrees with the conclusions of the Magistrate Judge, and therefore orders this action dismissed without prejudice in its entirety.

So ordered this 28th day of July, 2005.

/s/ Wendell A. Miles
Wendell A. Miles
Senior U.S. District Judge